



Religious Discrimination

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Title VII of the Civil Rights Act of 1964, as well as state and local laws, prohibit an employer from discriminating against an employee because of that employee's religion. Religion includes all aspects of religious observance, practice, and belief. In addition, Title VII, as well as many state and local laws, require employers to make a reasonable accommodation for an employee's religious practice, unless the required accommodation would pose an "undue hardship" to the employer.

Religious discrimination claims have increased in recent years; the EEOC estimates that charges of religious discrimination increased 41% from 1997 to 2015. If you believe you have been a victim of religious discrimination, it is important that you understand your rights.

I. What Does The Law Prohibit?

Federal, state, and local laws forbid employers from discriminating based on religion with respect to all terms and conditions of their employment, which include hiring, compensation, promotion, treatment on the job, and termination. These laws also prevent treating an employee differently based on the employee's association with a religious group, by marriage or otherwise, even if that employee is not a member of that religious group. Finally, these laws prevent employers from requiring an employee to take part in, or refrain from, any religious activities or beliefs. Similarly, an employer cannot make religious participation or belief a condition of employment. This general prohibition does not apply to certain religious employers, such as places of worship or religious-affiliated non-profit organization, which are permitted to employ their co-religionists. If you work for such an employer, you may still be entitled to religious-based employment protections depending on individual case-by-case factors, such as the nature of your job.

a. Disparate Treatment Discrimination

The law prohibits an employer from deliberately treating employees less favorably because of their religion. This type of disparate treatment may be in the form of adverse employment actions such as refusing to hire, refusing to provide training, denying promotions, denying equal compensation and benefits, disciplining, and firing.

Disparate treatment discrimination includes harassment based on religion. Harassment might include offhand remarks about religious garb such as a yarmulke or head scarf, mocking an employee's religious beliefs, or attempts to proselytize in the workplace. As with [sexual harassment](/resources/sexual-harassment) (</resources/sexual-harassment>), religious harassment can be the basis for a legal claim if it is sufficiently severe or pervasive to alter the individual's work environment.

b. Disparate Impact Discrimination

"Disparate Impact" discrimination occurs when an apparently objective policy has a disproportionately negative effect on members of one religion, and the employer is unable to show that the policy is job-related and justified by business necessity. Many work place policies governing appearance standards or work schedules, while neutral, could be viewed as having a disparate impact on individuals whose religious practices do not conform to those rules, even though the rules do not single out a particular religious group.

c. Reasonable Accommodation

Title VII, as well as many state and local laws, require employers to provide employees with reasonable accommodations of their religious practices and beliefs. Typical accommodations include schedule changes or leave for religious holidays or other religious observances, or an exception to a company dress code policy for religious head coverings or other religious attire.

Employers are not required to provide an accommodation if it would cause "undue hardship." Undue hardship is generally defined as involving minimal cost to the employer (unlike accommodations for disability), or causing negative effects on workplace safety or productivity.

d. Retaliation

Federal, state, and local laws also prohibit retaliation against employees who oppose religious discrimination (such as by filing internal complaints, filing a charge with the Equal Employment Opportunity Commission, etc.). Retaliation may take any of the forms above, as well as any action which could dissuade a reasonable employee from making or supporting a charge of discrimination.

II. Title VII

Title VII is the federal law that prohibits discrimination on the basis of religion.

a. Which employers are covered?

Title VII applies to employers with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, including private employers, state and local government employers. 42 U.S.C. § 2000e(b). It also applies to labor organizations and employment agencies, 42 U.S.C. § 200e-2(b)-(d), and to the federal government, 42 U.S.C. § 2000e-16, although there are different procedures for a federal employee to pursue a discrimination claim. Even if your employer employs fewer than 15 employees, it may be considered a covered employer under Title VII if it has acted jointly with a parent or subsidiary corporation, and together the employees number more than 15; to determine whether the companies have acted jointly, a court would focus on factors such as the degree of interrelationship, degree of common ownership, control, and management, and degree of centralization of personnel functions.

b. What remedies are available?

If a court finds you have been discriminated or retaliated against in violation of Title VII, you may be entitled to remedies including:

- Reinstatement, compelled hiring, or compelled promotion
- Back pay
- Front pay
- Retroactive seniority and benefits
- Compensatory and punitive damages (punitive damages not available against government employers)
- Attorneys' fees

c. How do I vindicate my rights?

Non-Federal Employees

You must file a charge with the EEOC in order to seek a legal remedy for religious discrimination or retaliation that violated Title VII. You must file your charge within 180 days from the date of the alleged violation in order to protect your ability to vindicate your rights under Title VII. 42 U.S.C. § 2000e-5(e)(1). If you live in a state that has a state law prohibiting religious discrimination, however, this 180-day filing deadline is extended to 300 days or 30 days after you have received notice of termination of state

proceedings if that date is earlier, because you are required to file a charge with the appropriate agency in your state. *Id.*

The EEOC or your state or local agency will investigate your charge of discrimination, and if the agency determines your charge has merit, it will attempt to foster conciliation between you and the employer. Regardless of the EEOC's determination, you may bring a civil action in court after 90 days have passed since you filed your charge by requesting a "right-to-sue" letter from the EEOC. See 29 C.F.R. § 1601.28(e).

Federal Employees

If you are a federal employee, you must first initiate a complaint by contacting your employing agency's EEO counselor within 45 days of the alleged violation. If the complaint cannot be resolved informally, you must file a formal written complaint with the agency that discriminated against you within 15 days of the notice of the EEO counselor's failure to resolve the matter. 29 C.F.R. §§ 1614.105(a)(1), .106(b). The agency investigation must be completed within 180 days of the date the complaint or its last amendment was filed, or within 360 days of the date the original complaint was filed, whichever is earlier. 29 C.F.R. §1614.108. A court action must be filed within 90 days of receipt of notice of final action on the formal written complaint. 42 U.S.C. §2000e-16(c).

III. State And Local Laws

State and local laws also prohibit the unfavorable treatment of an employee because of his or her religion. In large part these statutes mirror Title VII. However, the specifics vary state to state, and often, the language of the local laws may be broader than Title VII. Accordingly, plaintiffs may be able to pursue claims for damages and other relief under these statutes in addition to those provided by Title VII. For example, the D.C. anti-discrimination law does not include a cap on damages or a requirement that the employee first file an administrative complaint. Similarly, several counties in Maryland have anti-discrimination statutes that apply to all employers in the county regardless of size.

If you are experiencing – or have already experienced – discrimination based on your religion that you are thinking about reporting, or if you have already reported discrimination and are facing retaliation, **contact** (<http://www.kmblegal.com/contact/>) the experienced lawyers at Katz, Marshall & Banks, LLP for an evaluation of your case with no further obligation.